

## § 17.62

penalty at any time prior to completion of final action on the first claim covering use of spirits at the new premises, or within 90 days of the move, whichever is later.

(Title II, sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5143))

[T.D. TTB-36, 70 FR 62241, Oct. 31, 2005]

### § 17.62 Failure to register.

Except in the case of claims covering spirits used during the suspension period described in §17.21(b) when the special tax rate is zero, a manufacturer who fails to register a change of location with TTB, as required by §17.61, shall pay a new special tax for the new location if a claim for drawback is filed on distilled spirits used at the new location during the tax year for which the original special tax was paid.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

### § 17.63 Certificates in lieu of lost stamps.

The provisions of §§17.61 and 17.62 apply to certificates issued in lieu of lost or destroyed special tax stamps.

## CHANGE IN CONTROL

### § 17.71 General.

(a) Subject to paragraph (b) of this section, certain persons may qualify for succession to the same privileges granted by law to the taxpayer, to cover the remainder of the tax year for which the special tax was paid, or for which registration was made during the suspension period described in §17.21(b). Those who may qualify are specified in §17.72. To secure these privileges, the successor or successors shall file with TTB, within 90 days after the date on which the successor or successors assume control, a return on TTB Form 5630.5, showing the basis of the succession.

(b) With respect to spirits used during the suspension period described in §17.21(b), the successor or successors must file the return prior to completion of final action on the claim(s) covering such spirits, or within 90 days of

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the change in control, whichever is later.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

### § 17.72 Right of succession.

Under the conditions set out in §17.71, persons listed below have the right of succession:

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a taxpayer.

(b) A husband or wife succeeding to the business of his or her living spouse.

(c) A receiver or trustee in bankruptcy, or an assignee for the benefit of creditors.

(d) The members of a partnership remaining after the death or withdrawal of a general partner.

### § 17.73 Failure to register.

Except in the case of claims covering spirits used during the suspension period described in §17.21(b) when the special tax rate is zero, a person eligible for succession to the privileges of a taxpayer, in accordance with §§17.71 and 17.72, who fails to register the succession with TTB, as required by §17.71, shall pay a new special tax if a claim for drawback is filed on distilled spirits used by the successor during the tax year for which the original special tax was paid.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

### § 17.74 Certificates in lieu of lost stamps.

The provisions of §§17.71-73 apply to certificates issued in lieu of lost or destroyed special tax stamps.

### § 17.75 Formation of partnership or corporation.

If one or more persons who have filed a special tax return and paid any tax due form a partnership or corporation, as a separate legal entity, to take over the business of manufacturing nonbeverage products, the new firm or corporation shall file a new special tax return and pay a new special tax in order to be eligible to receive drawback. In the case of claims covering spirits used during the suspension period described